



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable C. J. Wilde
County Auditor
Nueces County
Corpus Christi, Texas

Dear Sir:

Opinion No. 0-3955

Re: Should the salaries of the
court reporters mentioned be
paid on the basis of \$3,000.00
per annum for the time served
in Nueces County only?

Your letter of September 12, 1941, requesting an
opinion of this department on the above stated question reads
as follows:

"In the recent session of Legislature
there was granted for Nueces County the 94th
District Court. This, then brought Nueces
County under the above numbered Article,
namely 2328B, in which it becomes mandatory
that the official short-hand reporters in
each judicial district in any County of this
State, which consists of two or more judi-
cial districts, shall receive the salary of
\$3,000.00 per annum.

"We have in Nueces County in addition
to the official reporter for the 117th and
the 94th district courts two additional
court reporters, one for the 128th. district
court, which serves Nueces, Kleberg, and
Kennedy Counties. We also have the Criminal
district court holding court in Nueces,
Kleberg, Kennedy, Willacy and Cameron Counties.

"It is the opinion of the writer that
the salaries paid to the Court Reporters of
these latter two mentioned courts should be

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paid for the time served in Nueces County on the basis of the reporters of both the 94th and 117th district courts. The reporter for the 128th district court has a period of forty weeks in Nueces County. The reporter for the Criminal district court has a period of fifteen weeks in Nueces County.

"Is it your opinion that the salaries of these court reporters be paid on the basis of \$3,000.00 per annum for the time served in Nueces County only. This, of course, would not affect the salaries paid these reporters from the other counties in which they serve.

"The writer personally believes as stated above that the reporters should be paid on these basis otherwise it would be discriminating to pay the reporters of those courts, who serve in Nueces County full time and receive the salary of \$3,000.00 and to pay the reporters in those courts which serve Nueces County only part time on the basis of \$2,700.00 for the time served in Nueces County."

Articles 2326b and 2327a, Vernon's Annotated Civil Statutes, respectively, read as follows:

"Art. 2326b. The salary of the official shorthand reporter in each Judicial District in any county of this State which alone constitutes two or more Judicial Districts, in addition to the compensation for transcript fees as provided by law shall be \$3,000.00 per annum, to be paid as the salary of other court reporters are paid, out of the general fund of the county."

"Art. 2327a. In each Judicial District of this State composed of one county only, and in which county there is only one District Court, and also in each Judicial District composed of two (2) or more counties, and also in each Judicial District composed of one county,

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which county composes also a portion of another Judicial District, the salary of the official Court Reporter shall be Twenty-seven Hundred Dollars (\$2700) per annum, in addition to the compensation for transcript fees and allowances for expenses now provided by law; said salary to be paid monthly by the Commissioners Court of the county or counties, out of the General Fund of the county or counties, upon the certificate of the District Judge; provided that in any Judicial District composed of two (2) or more counties said salary shall be paid by such counties of the District in proportion to the number of weeks provided by law for holding Court in the respective counties in the District; and provided that in a District wherein in any county the term may continue until the business is disposed of, each county shall pay in proportion to the time Court is actually held in such county; provided, however, that in Hays County, Texas, the Court Reporter shall be paid out of the Jury Fund of said county upon the certificate of the Judge of the District Court of said county.

"Provided further that nothing in this Act shall be construed as in any way repealing Article 2323 of the Revised Civil Statutes of 1925, nor Chapter 56 of the General Laws of the Regular Session of the Forty-first Legislature, 1929, nor shall this Act in any way repeal or amend any local or special law passed at the Regular or First and Second Called Sessions of the Forty-first Legislature of 1929."

Article 2326h was enacted by the 41st Legislature, Regular Session, 1929, p. 112, ch. 56, sec. 1. Article 2327a is a later statute, and was enacted by the 41st Legislature, Second Called Session, 1929, p. 97, ch. 59, sec. 1, and was amended by the 45th Legislature in 1937, p. 576, ch. 286, sec. 1.

Article 2323 of the Revised Civil Statutes of 1925, referred to in Article 2327a, supra, reads as follows:

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"In case of illness, press of official work, or unavoidable disability of the official shorthand reporter to perform his duties in reporting proceedings in court, the judge of the court may, in his discretion, authorize a deputy shorthand reporter to act during the absence of said official shorthand reporter, and said deputy shorthand reporter shall receive, during the time he acts for said official shorthand reporter, the same salary and fees as the official shorthand reporter of said court, to be paid in the manner provided for the official shorthand reporter; but the said official shorthand reporter shall also receive his salary in full during said temporary disability to act. The necessity for a deputy official shorthand reporter shall be left entirely within the discretion of the judge of the court."

Chapter 56 of the General Laws of the Regular Session of the 41st Legislature, 1929, is Article 2326a, Vernon's Annotated Civil Statutes, and provides for expenses of all official shorthand reporters and deputy official shorthand reporters of the district courts of this State, and prescribes the manner of payment.

We think that Article 2326b, supra, with reference to the salary of the official shorthand reporter in each judicial district in any county of this State which alone constitutes two or more judicial districts, does not authorize a salary of \$3,000.00 per annum for the reporters in the 94th or the 117th district courts. Apparently, this statute applies only where the county alone constitutes two or more judicial districts and which does not compose also a portion of another judicial district. It will be noted that Article 2327a, supra, specifically provides in part:

"... also in each Judicial District composed of two (2) or more counties, and also in each judicial district composed of one county which county composes also a portion of another judicial district, the salary of the official court reporter shall be Twenty-seven Hundred Dollars (\$2700) per annum, in addition to the compensation for transcript fees and allowance for expenses now provided by law; . . ." (Under-scoring ours.)

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The 94th and 117th judicial districts are each districts, composed only of Tarrant County, but said county composes also a portion of another judicial district, namely, the 126th judicial district and also the criminal district court, both of said courts including the counties as above named.

Therefore, it is our opinion that the official shorthand reporter for each of the four above named district courts is entitled to the salary of \$2,700.00 per annum, each, in addition to the compensation for transcript fees and allowances for expenses now provided by law. The salaries for the official shorthand reporters for the 126th district court and the criminal district court, or rather that portion of their salaries which is to be paid by Tarrant County, should be determined on the basis of \$2,700.00 and not on a basis of \$3,000.00 each.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

APPROVED NOV 5, 1941

ATTORNEY GENERAL OF TEXAS

JOSE ASSISTANT
ATTORNEY GENERAL

By

Ardell Williams
Assistant

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